

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In the Matter of:

**Determination of Royalty Rates and
Terms for Making and Distributing
Phonorecords (*Phonorecords III*)**

16-CRB-0003-PR (2018-2022)

**SERVICES' UPDATE TO THEIR UNOPPOSED MOTION FOR ACCESS TO AND USE
OF THE RESTRICTED WEBCASTING V INITIAL DETERMINATION**

Amazon.com Services LLC, Google LLC, Pandora Media, LLC, and Spotify USA Inc. (collectively, the “Services”) provide this update to the Copyright Royalty Judges (“Judges”) regarding their motion to allow all eligible participants in this proceeding to full access to and use of the restricted version of the Judges’ Initial Determination in Webcasting V on an outside counsel only basis.

Counsel for the Services have continued conferring with counsel for SoundExchange Inc., which also represents the remaining record label participants in Webcasting V, and is now authorized to state that those parties consent to the relief requested in this motion on certain conditions, to which the Services have agreed. Those conditions are reflected in the Modified Proposed Order being filed concurrently with this update and are:

- The restricted Initial Determination will be subject to both the Phonorecords III Protective Order and the Webcasting V Protective Order. In the event of a conflict between the protective orders, the more restrictive provision will govern.
- The following people who would otherwise be permitted to review the restricted Initial Determination under those protective orders shall not be permitted to review that document under this order: (1) attorneys for the participants in Phonorecords III who have not currently entered an appearance on the docket; (2) attorneys at the Wilson Sonsini law firm, whether or not currently appearing on the docket; and (3)

experts retained by the participants in Phonorecords III other than those who have already appeared as experts in the proceeding.

While the Services do not agree that these conditions are necessary to ensure the protection of confidential information contained in the Webcasting V Initial Determination and do not agree that there is any valid basis to require such conditions, they have agreed to these conditions solely for the purposes of obtaining the consent of SoundExchange and the record labels participating in Webcasting V and to enable the prompt resolution of this motion. The Services' agreement to these conditions in this proceeding is without prejudice to their ability to request and obtain access on a broader basis, including for the persons listed above, to restricted material from Webcasting V — including the Initial Determination, the Final Determination, and record material referenced in or underlying those determinations — for use in the Phonorecords IV proceeding. The Services expressly reserve all rights with respect to such a request.

As all participants in Webcasting V and all eligible participants in Phonorecords III have now indicated that they either consent to, do not object to, or take no position on the relief the Services request, the Services respectfully request that the Judges promptly grant this motion.

DATED: June 25, 2021

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Proof of Delivery

I hereby certify that on Friday, June 25, 2021, I provided a true and correct copy of the SERVICES' UPDATE TO THEIR UNOPPOSED MOTION FOR ACCESS TO AND USE OF THE RESTRICTED WEBCASTING V INITIAL DETERMINATION to the following:

National Music Publishers' Association (NMPA) et al, represented by Benjamin Semel, served via ESERVICE at Bsemel@pryorcashman.com

Johnson, George, represented by George D Johnson, served via ESERVICE at george@georgejohnson.com

Nashville Songwriters Association International, represented by Benjamin K Semel, served via ESERVICE at Bsemel@pryorcashman.com

Signed: /s/ Scott Angstreich